

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;  
Nora Mead Brownell, and Suedeene G. Kelly.

Wisconsin Public Service Corporation

Docket No. ER05-164-001

ORDER ACCEPTING UNCONTESTED SETTLEMENT

(Issued December 29, 2005)

1. On November 2, 2005, Wisconsin Public Service Corporation (WPSC) filed a partial Settlement Agreement (Settlement) which resolves all issues between WPSC and the Upper Peninsula Power Company (UPPCO), and the Upper Peninsula Transmission Dependent Utilities (UPTDU)<sup>1</sup> in this proceeding. The Settlement does not resolve any dispute with non-signatories but remains an offer to the non-signatories.
2. Trial Staff filed comments on November 22, 2005. WPSC and UPPCO filed Reply Comments on December 2, 2005. No other comments were filed. On December 8, 2005, the Settlement Judge certified the Settlement to the Commission as uncontested.
3. The Settlement is fair and reasonable and is hereby approved. The rate schedule sheets submitted as part of the settlement are in compliance with Order 614. *See Designation of Electric Rate Schedule Sheets*, Order No. 614, 65 Fed. Reg. 18,221, (FERC Statutes & Regulations, Regulations Preambles July 1996-December 2000, ¶ 31,096 (2000)). The rate schedules are hereby accepted for filing and made effective as specified in the Settlement. The Commission's approval of this settlement does not constitute approval of, or precedent regarding any principle or issue in this proceeding.

---

<sup>1</sup> UPTDU consists of the Village of L'Anse Electric Utility, Baraga Municipal Water & Light Plant, City of Gladstone, Negaunee Electric Department (the Municipals), the City of Escanaba, Michigan, the Ontonagon County Rural Electrification Association (Ontonagon) and the Alger Delta Cooperative Electric Association (Alger Delta). Alger Delta intervened in the proceeding as a member of the Algoma Group, but is part of UPTDU for purposes of the Settlement and is subject to all the rights and obligations of the Settlement. The Settlement does not include the Algoma Group (other than Algoma Delta).

4. This order terminates Docket No. ER05-165-001.

By the Commission. Commission Kelly dissenting in part with a  
separate statement attached.

( S E A L )

Magalie R. Salas,  
Secretary.

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Wisconsin Public Service Corporation

Docket No. ER05-164-001

(Issued December 29, 2005)

KELLY, Commissioner, *dissenting in part*:

For the reasons I have previously set forth in *Wisconsin Power & Light Co.*, 106 FERC ¶ 61,112 (2004), I do not believe that the Commission should depart from its precedent of not approving settlement provisions that preclude the Commission, acting *sua sponte* on behalf of a non-party, or pursuant to a complaint by a non-party, from investigating rates, terms and conditions under the “just and reasonable” standard of section 206 of the Federal Power Act at such times and under such circumstances as the Commission deems appropriate.

The parties to this settlement state that the *Mobile-Sierra* “public interest” standard will apply to various (but not all) provisions of the agreement. Therefore, I disagree with this order to the extent that the *Mobile-Sierra* public interest standard applies where a modification is proposed by the Commission or by a non-Party.

---

Suedeem G. Kelly